

REMARKS

Reconsideration of this application is respectfully requested in view of the following remarks.

In the Office Action mailed November 2, 2006, claims 1-27, 51, 70, 92, 116, and 137 were provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-24 of copending U.S. Application No. 09/775,532 (Statutory Double Patenting). The Applicants hereby traverse the rejection, as follows.

It should be noted that both paragraphs 2 and 3 of the Office Action are substantially identical with the sole significant difference that paragraph 2 refers to U.S. Patent No. 09/775,532, while paragraph 3 refers to copending Application No. 09/775,532. It is assumed that this is the result of a typographical error.

A Statutory Double Patenting rejection under 35 U.S.C. § 101 is appropriate to prevent two patents from issuing on the same invention. See M.P.E.P. § 804. A reliable test for double patenting under 35 U.S.C. § 101 is whether a claim in an application can be literally infringed without literally infringing a corresponding claim in a patent or copending application. *In re Vogel*, 422 F.2d 438 (CCPA 1970). Thus, if the claims of the application are not coextensive in scope with the claims of the patent or pending application, a Statutory Double Patenting rejection under 35 U.S.C. § 101 is not proper. See M.P.E.P. 804.02.

The Applicants respectfully submit that claims 1-27, 51, 70, 92, 116, and 137 are not coextensive in scope with claims 1-24 of copending U.S. Application No.

09/775,532, and that it is possible to infringe the claims of one application without infringing the other.

For example, regarding claims 1, 27, 70, 92 and 116, the Applicants submit that each of these claims is directed to a system or method for facilitating transaction processing and disposition within an access controlled environment, including at least the feature of "a billing facility configured to consolidate data . . . and to send a billing notice to a responsible party via said global data processing network," as recited in claims 1 and 27, and in the similar language of claims 70, 92 and 116.

Regarding claim 51, the Applicants respectfully submit that this claim is directed to a system for facilitating transaction processing and disposition within an access controlled environment, including at least the feature of "a communications facility for notifying said user systems based on said data and for permitting said data processing system to securely interact with externally coupled systems to facilitate disposition of said transaction," as recited in claim 51.

Furthermore, the Applicants respectfully submit that none of claims 1-24 of copending U.S. Application No. 09/775,532 recites "a billing facility configured to consolidate data . . . and to send a billing notice to a responsible party via said global data processing network," as recited in claims 1 and 27, and in the similar language of claims 70, 92 and 116 of the present application. In addition, none of claims 1-24 of copending U.S. Application No. 09/775,532 recites "a communications facility for notifying said user systems based on said data and for permitting said data processing

system to securely interact with externally coupled systems to facilitate disposition of said transaction,” as recited in claim 51 of the present application.

Regarding claims 2-26 and 137, the Applicants submit that each of these claims depends from one of claims 1 and 70, and therefore incorporates each and every feature recited in claims 1 and 70.

For at least these reasons, claims 1-27, 51, 70, 92, 116, and 137 are not coextensive in scope with claims 1-24 of copending U.S. Application No. 09/775,532 and it is possible to infringe the claims of one application (e.g., of U.S. Application No. 09/775,532) without infringing the other application (e.g., the present application). Therefore the Statutory Double Patenting rejection under 35. U.S.C. § 101 is not proper. The Applicants respectfully request withdrawal of the rejection.

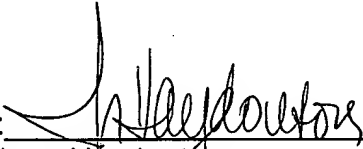
Conclusion

For all of the above reasons, it is respectfully submitted that the claims now pending recite patentable subject matter. Accordingly, reconsideration and withdrawal of the outstanding rejections and an issuance of a Notice of Allowance are earnestly solicited.

Should the Examiner determine that any further action is necessary to place this application into better form, the Examiner is encouraged to telephone the undersigned representative at the number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of time. The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with this communication to Deposit Account No. 01-2300, referring to client-matter number 026732-00011.

Respectfully submitted,

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